

LANZO CONSTRUCTION FOUND GUILTY

Lanzo Construction Company Found Guilty of Workplace Fatality in Landmark Worker Safety Case First Brought by Gov. Granholm as AG

On October 21, 2004, Lanzo Construction Company received an unprecedented criminal conviction resulting from a workplace fatality. The Roseville company was found guilty by **Judge Colleen A. O'Brien**, in the 6th Circuit Court (Oakland County), for the 1999 workplace fatality of Robert James Whiteye.

"This conviction sends a clear message to employers that worker safety is a priority in this state and employers will be prosecuted to the fullest extent of the law if they put workers' health or safety at risk," said **Gov. Jennifer M. Granholm**, who first brought the case when she served as the state's Attorney General. "This MIOSHA conviction is the first of its kind in terms of worker protection in the State of Michigan."

The Michigan Occupational Safety and Health Administration (MIOSHA) investigated the May 24, 1999, cave-in that killed Whiteye and found that Lanzo Construction

Company violated the most basic provisions of the MIOSHA trenching standard.

Based on provisions in the MIOSH Act, Public Act 154, as amended, every willful violation, which is connected to a fatality, is referred to the Michigan Attorney General's Office for criminal investigation and/or prosecution. During her tenure as Attorney General, Governor Granholm began the criminal prosecution of this fatality.

"The fatality investigation revealed extremely dangerous excavation conditions," said **DLEG Director David C. Hollister**. "The Court has reaffirmed MIOSHA's founding authority: that employers are required by law to provide a workplace free from recognized hazards. Lanzo Construction Company willfully and recklessly sent Robert Whiteye to work in an unprotected trench—a trench that tragically claimed his life. This disgraceful conduct will not be tolerated."

Lanzo Construction Company was convicted of the MIOSHA Willful Criminal felony violation. This conviction is unprecedented in that three other cases were settled with guilty pleas, whereas this case involved a full criminal trial.

The Court found that, "Defendant consciously and callously neglected to train both the hourly and supervisory personnel in its worker safety rules, which failure led to the death of Robert Whiteye."

In her decision Judge O'Brien said, "The conduct

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The Southfield Fire Department responded to the cave-in that trapped Robert Whiteye. The backhoe is attempting to stabilize the west side of the trench.



**Michigan Department of
Labor & Economic Growth**

From the MIOsha Director's Desk

By: Douglas J. Kalinowski



MIOsha: “Making a Difference” For 30 Years

2005 is a milestone year for workplace safety and health in Michigan. It marks the 30th Anniversary of the modern MIOsha program and the beginning of statewide, coordinated efforts to proactively work to improve safety and health conditions for Michigan's working men and women.

Although there has been a safety and health program in Michigan for more than 100 years, on January 1, 1975, the Michigan Occupational Safety and Health Act became effective, establishing the most comprehensive approach to worker safety and health in the state's history. MIOsha is a state program under the provisions of the federal OSHA Act, with the added benefits of state specific enhancements including consultation and education training services, dedicated construction safety and health staff, and greater opportunity for citizen input through the standard setting process.

Thirty years have seen many program improvements and changes in people who committed a good part of their lives to making a difference. However, the overall mission of the program—to reduce workplace fatalities, injuries and illnesses, has remained the same. It is a mission that, together with the collective efforts of employers, employees, insurance companies, organizations and others has made a tremendous impact on the daily lives of millions of people.

A statistical look back provides a glimpse of how far we have come. In 1977, there were 115 program-related fatalities. In 1978, there were 112. In 1979, there were 90. Over the time span of 2002 through 2004, there were 47, 51 and 43, respectively. One worker death is too many. The dramatic decrease, through, says that as a state, we are making significant strides in the right direction.

Workplace injuries and illnesses in Michigan over the past 20 years have also been reduced. Bureau of Labor Statistics data show that injury and illness rates have decreased nearly 30 percent since 1976. Again telling us that we are on the right path.

Focusing on Results

The MIOsha program has always included both strong enforcement and education and training components, and has worked with a wide range of stakeholders to help reduce fatalities, injuries and illnesses.

During these 30 years, we have matured as an agency and found new ways to move us toward our goal. Our MIOsha Strategic plan focuses resources and emphasizes the need for high quality service for all customers. And, we are focusing on results as the measure for our effectiveness.

Historically, we counted the number of inspections, investigations, consultations, training programs, violations and hazards identified. While we still review these activities, our focus is now on measuring impact demonstrated by fewer fatalities and lower injury/illness rates in targeted industries and of specific workplace injuries and illnesses. Targeting focuses on those areas where MIOsha services, both enforcement and consultation, can make the greatest impact.

MIOsha has added new ways to recognize employers with ex-

emplary safety and health efforts through the Michigan Voluntary Protection Program, the Michigan Safety and Health Recognition (SHARP), ergonomic achievement awards, partnerships and alliances.

Early on, a grant program was added to enhance education and training opportunities by calling on resources available through safety and health organizations throughout the state. These grants provide needed assistance to workers and employers in operations and industries that are unique or hard to reach.

In enforcement, targeting has improved to again focus on specific work locations where injuries are occurring. Improved equipment and technology make inspections quicker and less disruptive. We have also piloted initiatives such as focused inspections and a summer construction evening and weekend initiative.

Improving Program Services

Administratively, MIOsha has matured into a consolidated, more efficient organization. From 1975 through 1996, the MIOsha program was split between the Bureau of Safety and Regulation in the Michigan Department of Labor and the Division of Occupational Health in the Department of Public Health. In 1996, the safety and health programs were consolidated into one program – an important step forward. Over the past three years, we have taken even more steps to reorganize both the enforcement and education and training components to improve consistency, uniformity and efficiency. All of these actions were taken to enhance our abilities to help improve the safety and health of Michigan's workers.

Last year we implemented a system for issuing instruction, policy and guidelines that includes posting on our web page. Since that time, we have issued written instruction on fall protection, residential fall protection, multi-employer worksites, alliances and partnerships with MIOsha, the hazard communication standard, and the informal settlement agreement and appeal process. All were done with the goal of improving consistency, quality of information, and improved access to information. Many more instructions are in progress.

For 2005, MIOsha is developing plans to use the 30th Anniversary as an opportunity to re-emphasize the importance of every worker's safety and health. The 75th Anniversary of the Michigan Safety Conference will be used to kick-off anniversary activities. The schedule of activities will be added to the MIOsha website, once finalized.

As the 30th year of the modern MIOsha program begins, use this opportunity to look back to see if you are doing your best to protect worker health and safety. I have said before that the MIOsha program and all of the people within it will work diligently to help ensure that employers have the tools and employees have workplaces that are safe and healthful. Our goal, working together with all of you, is to continue our momentum and surpass past results to **make a difference** in eliminating fatalities, injuries and illnesses in every worksite across Michigan.

Douglas J. Kalinowski

WORKPLACE SAFETY AND HEALTH SOLUTIONS

The MIOSHA Consultation Education and Training (CET) Division is Ready to Help Employers Solve their Safety and Health Problems

*By: Connie O'Neill, Director
Consultation Education & Training Division*

The goal of the MIOSHA program is for every worker to go home healthy and whole every day. In today's competitive environment, companies are no longer accepting injuries and illnesses as a routine cost of business.

One key area where companies can control their costs is protecting their workers. MIOSHA has found that when employers have a strong safety and health system, it not only reduces injuries and illnesses—it also has a very positive impact on their bottom line. These "Bottom Line" benefits include:

- Lower workers' compensation costs,
- Increased productivity,
- Higher employee morale,
- Lower absenteeism, and
- Lower employee turnover.

If you're not satisfied with your company's safety and health performance, the Consultation Education and Training (CET) Division can help you develop a safety and health program, improve an existing program, or find the help you need to solve tough safety and health problems.

The overall goal of the CET Division is to identify safety and health hazards and reduce job injuries and illnesses through voluntary consultation, education and training. We are proud to offer free, professional safety and health services to Michigan employers and employees.

Customized CET Services

The primary work of CET Safety and Health Consultants is driven by the MIOSHA strategic

plan, focusing outreach services toward small, high-hazard industries. Many small employers do not have the resources to develop and implement a safety and health management system and may not understand how to comply with MIOSHA standards.

CET Consultants are available to customize consultation and training for the many diverse industries in Michigan. CET services may include assistance with "how-to" programs in such areas as:

■ **Hazard Recognition Programs**—training employers and employees on how to identify hazards in the work place.

■ **Safety Committee Development**—how to involve and empower employees to take ownership and responsibility.

■ **Management's Role in Safety and Health**—educating management on the importance of fully accepting employee safety and health as an integral part of the organization and its mission.

■ **Accident Investigation Techniques**—how to find the root-causes of accidents—implementing systems to alleviate the problems with long-term solutions.

■ **MIOSHA Recordkeeping**—how to record injuries and illnesses on the 300 log.

■ **Hazard Communication (Right to Know)**—how to comply with posting requirements, collection and understanding Material Safety Data Sheets (MSDS), and employee training requirements.

■ **Confined-Space Entry**—how to comply with the standard, to identify confined spaces, and to develop a written program.

■ **Control of Hazardous Energy (Lockout)**—how to comply with the standard, to develop specific-machine lockout procedures, and to train employees.

■ **Construction Safety Accident Prevention Programs**—how to maintain, implement and coordinate efforts for an effective safety and health system.

Are you experiencing high incident rates and are unsure of what to do? A new comprehensive service the CET Division is offering in FY 05 is the **Michigan Challenge Program (MCP)**. Consultants will provide assistance with the development and implementation of a comprehensive safety and health management system. CET consultants will conduct a hazard survey, analyze injury and illness records, review current written programs, and interview employees (line workers and supervisors) to assess the company's current program.



Owen Ames Kimball Company field superintendents invite CET Construction Safety Consultant Deb Johnson (R) on their jobsites for safety assistance.

A detailed safety and health proposal is prepared for the company outlining:

- Safety and health problems,
- Methods for correction, and
- Potential training needs.

The employer requesting this service makes a commitment to make the necessary corrections and allows the consultant to initiate specific training. The CET Consultant's involvement is long term, with scheduled follow-ups over a couple of years to offer additional consultation, as needed. Annual audits of the firm's injury and illness records are conducted to determine any reductions in the injury and illness rates. This unique program is an example of government and industry working together to improve worker safety and health.

Throughout the year employers and employees can also take advantage of seminars, workshops, 10-hour construction safety & health courses, and other specialized training like asbestos awareness and excavation and trenching, all for a nominal fee. These programs are conducted in collaboration with cosponsors who partner with CET to help advertise the course, handle registrations and provide the training room. CET Construction Consultants, in addition to servicing the contractor community and employees, also work with apprentice training schools. Apprentice training is an excellent way to ensure good worksite safety and health habits from the beginning of a worker's career. An annual calendar of seminars and workshops is available from the CET office and

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CET Consultant Doug Kimmel (L) conducts a hazard survey at International Paper Converting & Distribution in Sturgis with Production Manager Doug Flint.

Congratulations to Michigan's Johnson Technology Norton Shores Plant



Quenten Yoder, CET Consultant; Jennifer Tarrio, Team Member; Mark Anderson, Program Leader; Bobbie Duff, Team Member; Deb Gorkisch, EHS Technician; Felix Adame, Team Member; Doug Kimmel, CET MVPP Specialist; Harold Drake, Team Member; Patricia Willkinson, Team Member.

On July 16th, Johnson Technology, Inc.'s Norton Shores plant received the Michigan Voluntary Protection Program (MVPP) Star Award.

"I am proud to present this prestigious award to the employees and management of the Norton Shores plant, particularly since this is Johnson Technology's second Star company," said MIOSHA Director **Doug Kalinowski**. "Your outstanding safety and health record demonstrates that a strong safety and health program goes hand in hand with increased production and profits."

Kalinowski presented the MVPP Star Flag to President **David M. Yacavone**, who accepted the award on behalf of all Norton Shores' 90 associates. Employees raised the MVPP Star Flag during the ceremony. State and local elected officials, corporate leaders, and MIOSHA representatives were on hand to congratulate Johnson Technology employees and management on their outstanding achievement.

"We are extremely proud of this achievement, which recognizes each and every Associate who worked so hard to qualify for Star status," said Yacavone. "Our Norton Shores plant becomes our second manufacturing site in the Muskegon County area to achieve Star status. This is the ultimate demonstration of Johnson Technology's commitment to our workers' safety and health, while at the same time making the company more competitive."

Johnson Technology's Latimer plant received the MVPP Star Award on July 9, 2003. The Norton Shores plant received the MVPP Rising Star Award on December 12, 2003. Star sites must have incidence rates below the Michi-

gan average for their SIC Code for three years, while Rising Star sites must have incidence rates below the industry average for two years.

The Johnson Technology Norton Shores plant's incidence rates are well below the Michigan average for their SIC code 3724, *Aircraft Engines and Engine Parts*. The Total Case Incidence Rate for the Norton Shores plant was 4.5 in 2001, 2.2 in 2002, and 3.05 in 2003—compared to 6.4 each year for the Bureau of Labor Statistics (BLS) industry average. The Total Days Away/Restricted Cases (DART) Rate for the Norton Shores plant was 0.0 in 2001, 0.0 in 2002, and 0.0 in 2003—compared to 2.8 each year for the BLS industry average.

The **MIOSHA MVPP Review Team** consisted of **Doug Kimmel**, Team Leader; **Quenten Yoder**, Safety Consultant; and **Jenelle Thelen**, Industrial Hygienist. The team examined each of the elements of the site's safety and health management system, and found them to be consistent with the high quality of MVPP programs.

Johnson Technology has published and posted its commitment to safety and health throughout the facility. It includes the statement: "The implementation of this policy will receive a priority equal to production and quality." Led by President Yacavone, total staff commitment to achieving MVPP recognition was evident during the evaluation process.

Ensuring Safety Accountability

To ensure safety accountability, safety has been made a line function, and safety performance receives the same percentage (15 percent) as productivity in the employee appraisal process. The

company employs a "cell" work environment and a "flat" management style that ensures strong employee (associate) involvement and empowerment in all phases of company operation.

Each work cell receives a monthly scorecard that is posted in the shop areas. Factors evaluated include: incident rates; JSA (job safety analyses) audits completed; safety contacts completed; cell inspections completed; timeliness of incident investigations; lapsed time to fix safety issues; scheduled training completed; and attendance at committee meetings.

Commitment of material resources to safety is substantial. All required personal protective equipment was provided in ample quantities and appropriate for the hazards present. Comprehensive safety surveys are conducted and a sophisticated system of physical hazard controls is in place and highly effective. The company also conducts exposure monitoring on a regular basis.

Individual, cell, and company-wide goals are set annually following a comprehensive audit of the safety performance and management systems. Some objectives included: 35 percent reduction in injuries and lost time rates; 15 percent reduction in work-comp costs; no employee exposures to contaminants or physical agents exceeding established limits, and implementation of the ACTION program, a behavior-based tool for improving employee work practices.

The Norton Shores plant produces turbine nozzle segments for aircraft engines. Their 90 associates annually manufacture close to 26,000 jet engine parts that are assembled into several different types of aircraft. ■



(Front) David Yacavone, Pres., Johnson Technology; Connie O'Neill, CET Dir.; Sheila Ide, CET Supv.; Cindy Larson, Pres., Musk. Area Chamber; Holly Knolan, Office/Rep. Hoekstra; Doug Kalinowski, MIOSHA Dir.; Nancy Crandall, Norton Shores Mayor. (Back) Sen. Gerry VanWoerkom; Jim Edmonson, Ex. Dir., Musk. Area First; Rep. Julie Dennis; Rep. David Farhat; Jack Kolcun, Safety Pgm. Leader; Quenten Yoder, CET Cons. Doug Kimmel, CET Const.

Newest MVPP Star Companies!

Detroit Edison Fermi 2 Nuclear Plant

On July 26th, Detroit Edison's Fermi 2 Power Plant received the Michigan Voluntary Protection Program (MVPP) Star Award.

"It is a distinct honor to welcome Detroit Edison's Fermi 2 Power Plant into this exceptional group of Michigan 'Star' companies. We applaud your safety and health excellence," said DLEG Director **David C. Hollister**. "Your dedication to employee safety and health, as you provide the power that is fueling Michigan's economic recovery, has made this outstanding achievement possible."

Operating Safely Every Day

Hollister presented the MVPP Star Flag to DTE Energy Executive Vice President and Chief Nuclear Officer **Douglas R. Gipson**, who accepted on behalf of all Fermi 2 employees. Joining Gipson in accepting the award were a number of Fermi 2 employees who have been instrumental in helping the plant achieve its outstanding safety record, including **Don Cobb**, Director, Nuclear Production; **Lynda Craine**, Environmental Safety and Health Supervisor; **George MacAdam**, Senior Safety and Health Engineer; **Mike Sneider**, retired Mechanical Maintenance Journeyman; and **Mike O'Dell**, Fermi Division Bargaining Unit Chairman, Local 223, UWUA.

"This award is especially gratifying because safety has always been the top priority at Fermi 2," Gipson said. "As the operators of a nuclear power plant, our primary objective is to protect public health and safety – and we have an unblemished record in that regard. Worker safety is an integral part – the most important part – of operating the plant safely. Our employees have

embraced the safety-first mindset in everything they do and this award belongs to each and every one of them."

There are about 760 Detroit Edison employees and about 160 contract employees working at Fermi 2. The Utility Workers Union of America, AFL-CIO, Local No. 223, represents the utility employees.

William O'Connor, Detroit Edison vice president, Nuclear Generation, said during the award ceremony that safety is a focus of all work performed at Fermi 2. "The nearly 1,000 employees at this site have demonstrated a single-minded dedication to safe work practices," he said. "Safety is the first thing considered when any task is being planned and it's the overriding concern as the task is being carried out. A 'safety-focused culture' is not just a concept or a goal at this plant; it's how we work every day. It is an honor to accept this award on behalf of every employee."

Generating Outstanding Leadership

The Fermi 2 plant's incidence rates are well below the Michigan average for their SIC code, 491, *Electric Services*, which is considered a high-hazard industry. The Total Case Incidence Rate for the Fermi 2 plant was 2.3 in 2001, 0.8 in 2002, and 1.4 in 2003—compared to 5.0 each year for the Bureau of Labor Statistics (BLS) industry average. The Total Days Away/Restricted Cases (DART) Rate for the Fermi 2 Power Plant was 0.9 in 2001, 0.1 in 2002, and 0.7 in 2003—compared to 2.5 each year for the BLS industry average.

The Detroit Edison Fermi 2 Power Plant has an exemplary safety and health record, and has exhibited outstanding leadership in recognizing that a comprehensive safety and health program is critical to successful businesses today. The plant is



Employees and management of the Detroit Edison Fermi 2 Power Plant, as well as invited dignitaries and guests, celebrated the presentation of the MVPP Star Flag to the plant—for their outstanding commitment to achieving excellence in environmental, health and safety protection.

committed to achieving excellence in environmental, health and safety protection.

On their road map to reaching Star status, the Fermi 2 facility has met the rigorous MVPP Star program requirements. The **MIOSHA MVPP Review Team**, consisting of **Doug Kimmel**, Team Leader; **Sherry Scott**, Industrial Hygienist; **Jennifer Clark-Denson**, Safety Specialist; and **Suellen Cook**, Safety Specialist; examined each of the five required elements of the site's safety and health management system.

Reaching for Excellence

Areas of excellence include:

- OWLS (behavior-based safety observation) program,
- Pre-job briefings,
- Onsite, full-time EHS (environmental, safety and health) department,
- Full-time radiation protection staff,
- Personnel Safety Accountability Process,
- Employee safety and health training,
- Management and salaried staff held accountable for safety and healths,
- Auditing, accident investigations, surveys and monitoring.

Detroit Edison is an investor-owned electric utility that generates, transmits and distributes electricity to 2.1 million customers in South-eastern Michigan. Founded in 1903, it is the largest electric utility in the state, and the 7th largest in the nation. Detroit Edison is a subsidiary of DTE Energy, a Detroit-based diversified energy company involved in the development and management of energy-related businesses and services nationwide. ■



Eric Candela, Office of Rep. Dingell; Don Cobb, Dir., Plant Production; James Spas, Frenchtown Supv.; Doug Gipson, Ex. VP & Chief Nuclear Officer; Dale Zorn, Monroe Cty. Comm.; David Hollister, DLEG Director; Rep. Randy Richardville; Michael O'Dell, Barg. Unit Chairman, Local 223, UWUA; Doug Kalinowski, MIOSHA Director; William O'Connor, VP, Nuclear Generation.

FURNITURE AND FIXTURES MANUFACTURING INDUSTRY

WORKER SAFETY AND HEALTH IS A PRIORITY FOR MIOSHA IN THIS INDUSTRY WHICH REPORTS AN INJURY & ILLNESS RATE OF 16.1

By: Martha Yoder, Deputy Director
Michigan Occupational Safety and Health
Administration

The second MIOSHA strategic plan, for Fiscal Years 2003 through 2008, continues to focus program resources toward specific industries and types of injuries and illnesses. The goal is to reduce injury and illness rates in the targeted areas by 20 percent by the end of the plan.

The Furniture and Fixture industry, SIC 25/NAICS 337, is one of the industries identified in the plan. In Michigan, it is estimated that nearly 45,000 people work in the furniture and fixture industry at more than 425 establishments, which includes both wood and metal products. The work performed by this industry is labor intensive and includes cutting, assembling, sanding and finishing, painting and upholstering. The 2000 Michigan survey of occupational injuries and illnesses reports the total injury and illness case rate for the industry is 16.1, the fourth highest in the state.

Michigan's reputation as a producer of high quality furniture and fixtures goes back many decades and includes household furniture, mattresses, cabinets, and office and store furniture and fixtures. "Made in Michigan" has long meant made with excellent workmanship, pride and quality. It is also critical that it mean made with the well being of employees as a top priority.

Furniture Industry Inspections

Looking back five years, MIOSHA has conducted more than 150 inspections in the furniture and fixtures industry, citing 1,454 violations

and assessing over \$316,300 in penalties. Of the violations cited, there have been two Willful, 658 Serious, 781 Other, and 10 Repeat violations and three Fail-to-Abate notices. A "repeat" means the same rule was cited within the past two years.

The MIOSHA investigations have included reviewing accidents where employees have been seriously injured, such as the following examples.

■ **A general laborer**, with four months experience in the woodshop, was operating a shaper to round the corner of a mouse pad when he came in contact with the shaper receiving a severe cut to his right hand little finger. The employer was cited for failing to train a new employee on the procedures, hazards, and safeguards of the job, and failing to provide a guard for the shaper.

■ **A press operator**, with four months experience on the job, had the fingers of his left hand amputated while performing a bending operation using a press brake. The company was cited for inadequately checking the pull out device used as the point of operation guard on the press brake.

These accidents are examples of the hazards faced by workers in the furniture and fixture industry, and the need for diligent attention to ensuring worker safety. Below are the most frequently identified MIOSHA violations during the past five years.

Machine Guarding

A variety of rules addressing machine guarding were identified during MIOSHA safety inspections, making this the most significant hazard category. Approximately 290 machine guarding violations have been cited including those contained in General Industry Safety Standards Part 1, General Provisions; Part 1A, Abrasive Wheels; Part 7, Guards for Power Transmission; Part 11, Polishing, Buffing, and Abrading; Part 26, Metalworking Machinery; Part 27, Woodworking Machinery; and Part 24, Mechanical Power Presses. Lack of adequate point of operation guarding, unguarded pinch points, saws, grinding wheels, belts and pulleys, chains and sprockets, and rotating and reciprocating parts are the most frequently identified inadequacies.

Generally, machines which run continuously and present a hazard to employees at the point of opera-

tion are required to be fully safeguarded in a manner which prevents the entry of any part of an employee's body into the hazard zone during machine cycling.

General requirements also include guarding pinch points which occur when an employee can become caught between moving parts of a machine, between moving and stationary parts, or between material and any part of the machine. Pinch points must be guarded so that employees are not exposed.

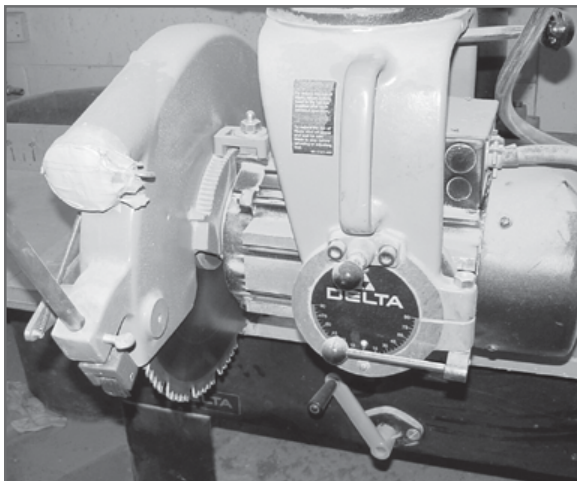
Belts and pulleys must be guarded when located within seven feet from the floor or when

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Furniture & Fixtures Equipment (SIC 25, NAICS 337) Top Ten Rules Cited by MIOSHA (October 1999 – September 2004)

1. **408.10727(I)** Provide guard for belt and pulley seven feet or less above floor or platform.
2. **1910.147(c)(4)(i)** Develop document and utilize lockout procedures.
3. **408.10034(9)** Guard pinch point or otherwise protect the employee exposed to contact.
4. **408.1036(I)** Assure that air pressure at discharge end of portable air blow gun or hose be less than 30 P.S.I.G. when dead ended.
5. **408.12154(I)** Provide valid operator permit for powered industrial truck operators.
6. **408.3312(I)** Assure use of appropriate eye protection.
7. **1910.303(g)(2)(i)** Assure that live parts of electric equipment operating at 50 volts or more are guarded against accidental contact.
8. **1910.305(b)(1)** Assure that unused openings in electrical cabinets, boxes and fittings are effectively closed.
9. **1910.1200(f)(5)** Label containers of hazardous material.
10. **1910.305(g)(1)(iii)** Prohibit use of flexible electrical cords and cables as a substitute for fixed wiring of a structure.

All MIOSHA standards are available on our standards website at: www.michigan.gov/mioshastandards. You can also call the MIOSHA Standards Office at 517.322.1845.



IMPROPER GUARDING – Radial arm saws **MUST** be adjusted so they do not overrun the table edge, and the blade **MUST** be guarded.

The Bottom Line

Workplace Safety and Health Makes Good Business Sense

Nalco Company - Jackson

Nalco Company is a world leader in water treatment and process chemicals. Headquartered in Naperville, IL, Nalco has 50 manufacturing facilities worldwide. The Jackson, MI, facility is a supplier of metalworking lubricants and finishing chemicals to customers worldwide that include General Motors, Honda, and Copeland Corporation.

Located strategically in the Midwest, the Jackson facility supplies specialty chemicals to local manufacturing companies. A core group of 20 employees handle the day-to-day production and shipment of customer orders. While metalworking lubricants are the majority of products sold, Jackson also supplies paint booth chemicals, and industrial cleaners and rust preventatives. Jackson is ISO 9001 certified and is currently pursuing RC14001 certification.

Safety Culture is Fundamental

The safety culture is deeply rooted in the overall fundamentals of the company. At the plant level outside Nalco personnel conduct audits routinely. These are conducted to ensure that the Jackson facility meets not only local standards, but Nalco's safety standards as well.

Training is conducted with all employees on Nalco 'Life-Critical' procedures, which includes: Confined Space Entry, Lockout/Tagout, and Line Opening, just to name a few. In addition to the 'Life-Critical' procedures, Nalco trains employees on more specific topics such as: Waste Minimization, Spill Response, Heat Stress, and Emergency Response. This focus on training and safety awareness is part of every job. Employees are taught to look for ways to improve safety not only in their department, but also in other areas of the plant.

Employees share duties on the plant Safety Committee, which is a mixture of salary and hourly employees. The goal of these meetings is to develop an atmosphere that fosters continuous improvement and open dialogue. Part of this dialogue is the safety suggestions that are submitted monthly by all employees. The Safety Committee reviews the suggestions and implements ideas that would contribute to a safer work environment.

Weekly Safety Crew Meetings are held in each department to review changes in plant procedures, new safety con-

cerns, or to reinforce safety principles. Additionally, each month plantwide safety meetings are conducted to review safety concerns with all plant employees. This open forum gives employees the opportunity to not only voice concerns, but also present possible solutions.

Zero Injuries & Illnesses is the Goal

All of these programs are tied into a key concept. Employee safety is the number one priority of the Nalco production facility. Nalco takes the position that the most important part of the job is safety. This point is introduced to new hires and continually reinforced to all employees.

New employees are introduced to this culture during the first two days of employment. Before training begins on the job, safety training takes place for the first one to two days. All of the Nalco 'Life-Critical' procedures are reviewed and job-specific safety training is also conducted. This ensures that the company's expectations are clearly defined and that the employee can count on working in a safe environment.

Nalco has shown that developing a safety culture will contribute to improved worker safety. Though the hard work of the Nalco employees, the plant is approaching three years without an OSHA recordable injury. Zero injuries and accidents continues to be the goal for all Nalco employees.



Nalco Plant worker Sam LeMar is adding defoamer to a product in process.

This column features successful Michigan companies that have established a comprehensive safety and health program which positively impacts their bottom line. An accident-free work environment is not achieved by good luck—but by good planning! Creating a safe and healthy workplace takes as much attention as any aspect of running a business. Some positive benefits include: less injuries and illnesses, lower workers' compensation costs, increased production, increased employee morale, and lower absenteeism.

MIOSHA Settlement Options

New Instruction Provides Greater Flexibility for Early Resolution

By: *Martha Yoder, Deputy Director
Michigan Occupational Safety and Health
Administration*

The Michigan Occupational Safety and Health Administration (MIOSHA) conducts inspections in Michigan workplaces, under authority of the Michigan Occupational Safety and Health (MIOSH) Act, P.A. 154 of 1974, as amended.

These inspections can result in MIOSHA issuing citations to an employer for alleged violations of rules or standards established under authority of the MIOSH Act. The citations include the violations, location information, a date by which correction must be made, and may include a penalty.

A recent instruction issued by MIOSHA provides greater flexibility to the General Industry Safety and Health and the Construction Safety and Health Divisions for settling cases. The goal is to gain abatement of hazards as quickly as possible and to avoid lengthy litigation. It is also anticipated that the new instruction will enhance opportunities for dialogue between employers and MIOSHA staff to explore issues and resolve conflicts.

The Appeal Process

The MIOSH Act provides due process for employers and employees should there be disagreement regarding the citation findings. Initially, an employer may appeal all or part of a citation that has been issued; and, an employee may petition the department when it is believed the time allowed for correcting a cited hazard is unreasonable.

The MIOSH Act establishes a two-step process that designates the issuing division as the point for initial review. This unique process is not found in federal OSHA.

First Appeal – All or part of a citation may be appealed within 15 working days of the receipt of the citation to the issuing MIOSHA division. A division review follows and a decision is issued.

Second Appeal – This appeal may be filed within 15 working days, upon receipt by the employer of the results of the first appeal. The Board of Health and Safety Compliance and Appeals schedules an informal prehearing meeting to discuss the issues and determine whether a resolution can be reached.

If the issues cannot be resolved, a decision is issued following a formal hearing by an administrative law judge (ALJ). Decisions by the ALJ may be appealed to the full seven-member Board and ultimately to the Michigan Circuit Court.

Informal Settlement Agreements

In addition to the formal appeal process, employers can choose to take advantage of a program for negotiating an informal settlement of the inspection results. The Informal Settlement Agreement (ISA) program is designed to reach abatement of the hazard at the earliest possible opportunity and reduce the need for formal appeals. The informal settlement can result in a penalty reduction of up to 50 percent when the employer and issuing division are able to agree to a number of specified conditions. These conditions include an agreement by the employer to:

- Not appeal the citations,
- Abate all items within the abatement period,
- Provide proof of abatement,
- Pay all agreed upon penalties,
- Abide by any other mutually agreed upon actions.

Employers interested in pursuing an ISA should contact the issuing division in writing, by phone, or by fax, within five workdays upon receipt of the citation, but no later than the 15th workday beyond receipt of the citations. If the employer wishes to settle the file and the process can be completed within 15 workdays from receipt, then no appeal need be filed.

Change in ISA Process

No changes to citations or abatement dates can be included in an Informal Settlement Agreement. This is a

change from past practice, which did allow inclusion of abatement extensions. With the new instruction, abatement extensions are addressed through a first appeal. First appeal requests and responses must be posted in the workplace, which ensures that employees will receive notification that the employer is seeking additional time to correct a workplace hazard.

Changes at the First Appeal Level

Discussion between Employer and Issuing Division – To increase discussion of issues, the new instruction calls on the issuing division to make a reasonable effort to contact the employer to discuss the issues of their appeal prior to issuing a decision, unless the written document submitted is sufficiently explanatory. When issues cited or raised by the employer warrant, the employer will be provided an opportunity to meet with the issuing division, if so desired.

Penalty Reduction – A first appeal can result in a penalty reduction of up to 50 percent, providing the issuing division and the employer agree to certain conditions. These conditions include agreement by the employer to not appeal further. This option was added to address those circumstances where an employer is primarily interested in settling the case, but may need additional time for abatement of certain items, have need for discussions or clarifications that cannot be accomplished during the first 15 workdays, or seek modification of a single or small number of issues within the case, based on good cause.

Partial Settlements – The issuing divisions may now enter into partial settlement agreements in those cases where benefit to the agency can be shown. The goal of expanding use of partial settlements at both the first and second appeal steps is to reduce the volume of routine appeals so that the MIOSHA Appeals Division staff can focus resources on issues that are deemed to be of greater importance. A significant program benefit is that hazards will be corrected quicker for those items that are not under dispute. By settling the undisputed items, the employer will agree to correct the hazards and provide appropriate assurance to MIOSHA. This process ensures that where there is no disagreement on the majority of issues; hazards can be addressed at the earliest possible time.

Partial settlement agreement at the first appeal level, must be consistent with the following parameters:

- It is typically intended for circumstances

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Jim Devonshire, Senior Safety Officer, Construction Safety and Health Division, and Robin Spaulding, Appeals Coordinator, reach an agreement with an employer during a prehearing meeting.

Construction Hazard Alert

The MIOSHA Construction Safety and Health Division, has discovered a potentially life threatening hazard existing with the use of job-built/shop-built suspended scaffold supports that lack design, testing, or certification for their ability to safely support the intended loads.

By: Richard Kawucha & James Zoccoli
Senior Safety Officers
Construction Safety and Health Division

Scaffold Fatality

The Michigan Department of Transportation (MDOT) hired Atsalis Brothers Painting Company as the main contractor for a five year, \$18-million project to paint the bridge that spans the Rouge River, at Interstate 75 and Dearborn Avenue in Wayne County.

On August 27, 2004, four workers with Atsalis Brothers were painting the steel beams under the on-ramp that leads from Dearborn Avenue to southbound I-75. They were on a construction scaffold, which was hung under the overpass. The four-point suspension scaffold was raised and lowered by four hoists, located in each corner of the platform.

One of the supports for the hoists failed, striking one of the workers in the face. The entire scaffold, and all four employees, fell approximately 30 feet to the ground. One employee, Jorge Anaya, 44, of Detroit, died, and the other three sustained serious injuries from the fall and were sent to a hospital for treatment.

Necessary Scaffold Supports

The scaffolds used by Atsalis and other contractors are typically raised with hoist motors, and then hung by other support underneath the bridge from the under-beams. The hoist motors are then taken down to be used elsewhere. In the Atsalis case, their hoisting brackets were made out of 3" angle iron that hung over the parapet walls of the bridge, to hoist the scaffold into place. It was these brackets that failed while raising the scaffold into place.

Beeche Company was the manufacturer of the scaffold used for the bridge under-work. Beeche will "engineer" a system for raising the scaffold and hanging it in place, however there is additional expense in having Beeche provide this service. One engineered means of raising this type of scaffold is to use I-beams across the roadway, across and above the parapet walls on either side of the roadway. The issue with using this method is that traffic must be stopped while raising the scaffold, which the contractors do not like to do.

The problem occurs when rigging for suspended scaffolds is hung from the angle iron supports. The use of these job-built/shop-built

supports generally does not take into account the type of material from which the supports are constructed, how they are constructed (including an approved welding procedure), the loads to which they are subjected, the installation of tie-backs, and the possible overloading effect that asymmetrical raising and lowering of suspended scaffolds can have on these supports.

MIOSHA Part 12, Scaffolds and Scaffold Platforms, has specific requirements for suspended scaffolds, including design, capacities, installation, and construction of the scaffold and supports for them. Rules 1229 through 1240 of Part 12 specifically address issues related to suspended scaffolds. The standard also requires necessary training and information for employees that erect, install and dismantle the scaffolding, and for employees that occupy the scaffold while doing the construction activity.

The manufacturers of scaffolds and accessories, such as scaffolding hoist motors, have specific information in their literature that gives installation warnings, general information and references for information on safe installation of suspended scaffold platforms. Some scaffold manufacturers also provide engineering design services for building, using and dismantling suspended scaffolds.

Unsafe Brackets and Hoisting Mechanisms

MIOSHA is issuing this Alert because we are concerned that unsafe brackets and other methods are being used to raise scaffolds at construction sites across the state. MIOSHA Construction Safety Officers have seen similar brackets used in other places, where the employer tells us they are only being used to hang abrasive-blast curtains. In these cases, there must also be appropriately engineered methods for hoisting the scaffolds.

MIOSHA has also inspected at least one worksite where the employer was raising a suspended scaffold platform using two rough terrain fork trucks. Tandem lifting in this manner is dangerous, and is not an acceptable means of raising a scaffold platform.

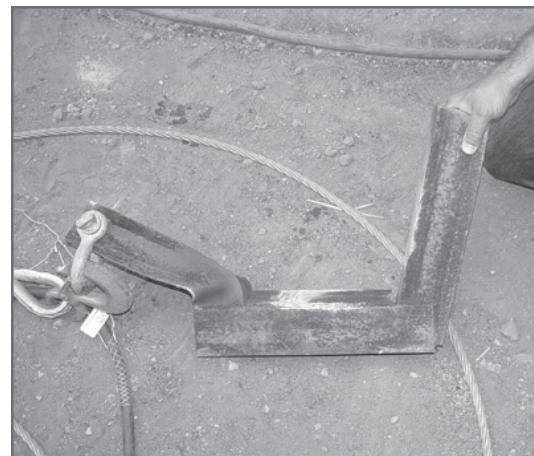
This Hazard Alert is not a standard or regulation, and it creates no new le-

gal obligations. The Alert is advisory in nature, informational in content, and is intended to assist employers in providing a safe and healthy workplace.

If you have questions regarding safe hoisting for construction platforms and scaffolds, you can contact the **Construction Safety and Health Division at 517.322.1856**. In addition, the **Consultation Education and Training (CET) Division** can help employers across the state address the hazards associated with the construction industry. To request CET Division construction safety services, please call **517.322.1809**. ■



Job-built/shop-built suspended scaffold supports that lack design, testing, or certification for their ability to safely support the intended loads—may be a life threatening hazard.



This job-built/shop-built angle iron support for the scaffold hoist at the Atsalis Brothers I-75/Dearborn bridge painting project failed, and the scaffold fell to the ground.

MIOSHA ISSUES MULTI-EMPLOYER WORK SITE INSTRUCTION

By: Robert Pawlowski, CIH, CSP, Director
Construction Safety and Health Division

MIOSHA recently finalized an instruction to address issues related to multi-employer work sites. The instruction provides guidelines for Construction Safety and Health Division (CSDH) and General Industry Safety and Health Division (GISHD) compliance officers to follow when conducting inspections at and preparing citations for multi-employer work sites. MIOSHA's Field Operations Manual (FOM), October 1999, states the agency's citation policy for multi-employer work sites. The instruction provides further clarification.

The instruction continues MIOSHA's existing policy for issuing citations on multi-employer work sites. However, it gives clearer and more detailed guidance than the description of the policy in the FOM, including examples explaining when citations should and should not be issued to exposing, creating, correcting, and controlling employers. These examples, which address common situations and provide general policy guidance, are not intended to be exclusive. In all cases, the decision on whether to issue citations is based on the relevant facts revealed by the inspection or investigation.

The instruction neither imposes new duties on employers nor detracts from their existing duties under the MIOHSA Act. Those duties continue to arise from employers' statutory duty to comply with MIOHSA standards and their duty to exercise reasonable diligence to determine whether violations of those standards exist.

On multi-employer work sites (in all industry sectors), more than one employer may be citable for a hazardous condition that violates a MIOHSA standard. A two-step process must be

followed in determining whether more than one employer is to be cited. The first step is to determine whether the employer is a creating, exposing, correcting, or controlling employer. The definitions below explain and give examples of each. Remember also, that an employer may have multiple roles. If the employer falls into one of the four categories, it has obligations with respect to MIOHSA requirements.

Step two is to determine if the employer's actions were sufficient to meet those obligations. The extent of the actions required of employers varies based on which category applies. Note that the extent of the measures that a controlling employer must implement to satisfy the duty of reasonable care is less than what is required of an employer with respect to protecting its own employees. This means that the controlling employer (e.g., a general contractor or construction manager) is not normally required to inspect for hazards as frequently or to have the same level of knowledge of the applicable standards or of trade expertise as the sub-contractor employer it has hired, with respect to the sub-contractor's employees.

The Exposing Employer

An employer whose own employees are exposed to the hazard.

- The exposing employer must protect its employees from the hazard. If the employer has the authority to correct the hazard, it is citable if it failed to exercise reasonable care to correct it. The reasonable care standard for the exposing employer is very high; it must frequently and carefully inspect to prevent hazards and must correct hazards found promptly.

- If the exposing employer lacks the authority to correct the hazard, it is citable if it fails to take all feasible measures to: minimize the hazard, minimize its employees' exposure to the hazard, and ask the controlling employer to get the hazard corrected. In extreme circumstances (e.g., imminent danger situations), the exposing employer is citable for failing to remove its employees from the job to avoid the hazard.

The Creating Employer

The employer who created the hazard.

Example 1: A contractor hoisting materials onto a floor damages perimeter guardrails. None of its own employees are exposed to the hazard, but employees of other contractors are exposed.

Analysis: This creating employer is citable if it failed to take immediate steps to keep all employees, including those of other employ-

ers, away from the hazard and to notify the controlling contractor of the hazard. If it had the authority to repair the guardrails, it is also citable if it failed to promptly correct the hazard.

Example 2: An excavating contractor digs a trench with a backhoe, never entering the trench. It fails to install cave-in protection, as it was required by contract to do and leaves the site. The next day employees of a plumbing contractor enter the unprotected trench.

Analysis: The excavating contractor is citable because it created the hazard even though none of its employees were exposed to the hazard. The plumbing contractor is citable as an exposing employer.

The Correcting Employer

An employer who is responsible for correcting a hazard.

Example 3: A carpentry contractor is hired to erect and maintain guardrails throughout a project. None of its own employees are exposed to the hazard, but other employees are exposed where the guardrails are missing or damaged.

Analysis: This correcting employer is citable if it failed to exercise reasonable care in its efforts to install and repair guardrails and to discover missing or damaged guardrails.

Note: Exposing, creating and controlling employers can also be correcting employers if they are authorized to correct the hazard.

The Controlling Employer

An employer who has control over the exposing, creating and/or correcting employer. To be citable as a controlling employer, the employer must have sufficient control **and** must have failed to exercise reasonable care in preventing, discovering or correcting the hazard.

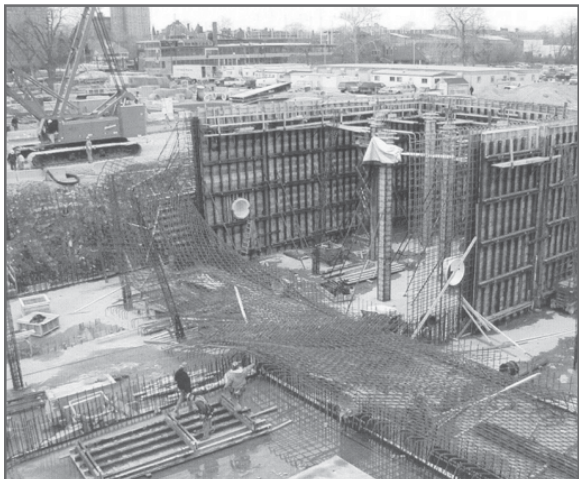
Sufficient Contractual Control

- By a Specific Contract Right to Control Safety: To be a controlling contractor, the employer must be able to require a subcontractor to prevent or correct a violation. One source of this ability is contract authority. This can take the form of a specific contract right to require a subcontractor to adhere to safety and health requirements.

- By a Combination of other Contract Rights: Where there is no specific contract provisions granting the right to control safety or where the contract says the employer does not have such a right, an employer may still be a controlling employer. The ability of an employer to control safety in this circumstance can result from a combination of contractual rights that together, give it broad responsibility at the site involving almost all aspects of the job, including aspects that affect safety.

- Some of the contractual rights that typically combine to result in this authority include:

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All employers on a multi-employer work site have a statutory duty to comply with MIOHSA standards and to exercise reasonable diligence to determine whether violations of those standards exist.

Michigan AGC Alliance

On December 3, 2004, the Michigan Chapter Associated General Contractors (AGC) of America and the Michigan Occupational Safety and Health Administration (MIOSHA) renewed their strategic alliance to protect the safety and health of Michigan's construction workers.

Protecting Construction Workers

The construction industry is one of the most hazardous industries in Michigan. Only about four percent of Michigan's workforce is employed in construction—however, construction fatalities account for more than 40 percent of all fatal workplace accidents.

"We are proud to work side-by-side with Michigan AGC to meet the primary goal of this alliance—to keep Michigan's construction workers safe and healthy on the job," said **David C. Hollister**, Director, Michigan Department of Labor & Economic Growth. "When industry, labor and government come together, we can save lives by ensuring that worker safety and health plays an integral role in construction projects."

Glenn D. Granger, President, Michigan AGC, and President, Granger Construction Co.; **Doug Kalinowski**, Director, MIOSHA program; and **Connie O'Neill**, Director, MIOSHA Consultation Education and Training (CET) Division; signed the alliance during Michigan AGC's 59th Annual Meeting in Lansing. The organizations officially became partners to improve worker safety and health in the construction industry in 1998.

"AGC is delighted to improve our relationship with MIOSHA. Both the association and MIOSHA are committed to making Michigan's construction industry safer," said Bart Carrigan, Executive Vice President, Michigan Chapter Associated General Contractors. "The goals and objectives of our alliance feature the combined efforts of AGC and MIOSHA; thus strengthening our individual efforts. Outreach and communication, training and education, ongoing dialog, clear definition of roles and responsibilities and focus on positive outcomes are the areas where we will cooperate."

Cooperating with MIOSHA

Alliances enable organizations committed to workplace safety and health to collaborate with MIOSHA to prevent workplace injuries and illnesses. Alliances are open to all groups, including: trade or professional associations, businesses, labor organizations, educational institutions, and government agencies.

"By combining our resources, Michigan AGC and MIOSHA can have a significant impact on safety and health prevention efforts at construction worksites," said Kalinowski. "This strategic alliance will give Michigan AGC's contractors the necessary tools to protect their workers and com-

mit to safe and healthy work practices."

The Michigan AGC is a full service construction trade association, with a membership composed of more than 200 general contractors and affiliated companies who construct the majority of Michigan's infrastructure. They offer significant safety and health training to their members, including interactive computer training on the jobsite.

The key goals of this alliance include: promote enhanced awareness of worker safety and health to AGC members; promote worker safety through education and training opportunities at the jobsite; promote increased implementation of accident prevention programs at members'



Doug Kalinowski, Director, MIOSHA Program; and Glenn D. Granger, President, Michigan AGC, and President, Granger Construction Company.

sites; and promote regular and unscheduled CET safety and health hazard surveys.

Reaping the Benefits

While participation by individual employers is voluntary, MIOSHA anticipates that contractors, who embrace the goals of the partnership and who strive to provide a safe and healthy workplace, will experience a decrease in workplace accidents and illnesses, and a decrease in workers' compensation costs.

There are many benefits to participating in an alliance with MIOSHA. Through this program, organizations will:

- Build trusting, cooperative relationships.
- Network with others committed to workplace safety and health.
- Exchange information about best practices.
- Leverage resources to maximize worker safety and health protection.

For information about forming an alliance or partnership with MIOSHA, please check our website at www.michigan.gov/miosha, or contact the **Consultation Education and Training (CET) Division** at 517.322.1809. ■

INDUSTRY ALERT

MIOSHA is Alerting Employers in the Popcorn or Flavoring Industry of Reports of Severe Cases of a Relatively Rare Irreversible Lung Disease.

Identified as *bronchiolitis obliterans*, the disease was first reported in the microwave popcorn packaging industry at a plant in Missouri. It was subsequently noted in workers in similar plants in other states.

The main respiratory symptoms experienced by workers include cough and shortness of breath on exertion. These symptoms typically do not improve when the worker goes home at the end of the workday or on weekends or vacations. Additional symptoms may include eye, nose, throat and skin irritation, fever, night sweats and weight loss.

Bronchiolitis obliterans has many known causes, such as inhalation of certain chemicals, certain bacterial and viral infections, organ transplantation, and reactions to certain medications. Known causes of *bronchiolitis obliterans* due to occupational or environmental exposures include gases such as nitrogen oxides, sulfur dioxide, chlorine, ammonia, phosgene and other irritant gases.

Recent Investigations by the National Institute for Occupational Safety and Health (NIOSH) strongly suggest that some flavoring chemicals can also cause *bronchiolitis obliterans* in the workplace. It is often misdiagnosed as asthma or chronic bronchitis by the local physician.

Case clusters of obstructive lung disease have been documented among workers at several different plants across the U.S., where flavorings are used or where chemicals are handled in the production of flavorings. Recent attention has been focused on workers exposed to volatile chemicals in butter flavorings at microwave popcorn plants, but other reports indicate that other flavoring and food manufacturing workers exposed to various flavorings may also be at risk.

The **MIOSHA Consultation Education and Training (CET) Division** has developed preventative and control measures for this occupational health risk, and is contacting employers in the popcorn flavoring industry. If you need assistance in identifying and preventing these hazards, you can contact the **CET Division's Onsite Health Consultation Program** at 517-322-1809.

2004 LIBERTY MUTUAL WORKPLACE SAFETY INDEX

The direct cost of serious workplace injuries grew faster than inflation at a time when the number of such accidents fell, according to the 2004 Liberty Mutual Workplace Safety Index. Under this Liberty Mutual survey, serious workplace injuries cause an employee to miss six or more days of work.

The cost of these workplace injuries continues to soar, even after adjusting for medical and wage inflation. In fact, over half of the 12.1 percent increase between 1998 and 2002 happened in 2002, despite a drop in the number of serious injuries over those four years.

Findings from the Workplace Safety Index

■ Serious work-related injuries cost employers almost \$1 billion per week in 2002 in payment to injured workers and their medical care providers—growing to \$49.6 billion from \$46.1 billion in 2001.

■ The number of serious work-related injuries fell 0.7 percent in 2002 from 2001, and 7.8 percent between 1998 and 2002.

■ The cost of these injuries grew 6.5 percent between 2001 and 2002, and made up more than half the total growth between 1998 and 2002 (12.1 percent) after adjusting for inflation in medical and income benefits.

■ The top three injury causes (Overexertion, Falls on Same Level and Bodily Reaction) represent 50 percent of the total cost of serious workplace injuries in 2002, costing employers about \$25 billion a year or \$500 million a week.

■ The top three injury causes are the fastest growing of all injury costs. Costs for each of the top three rose 3.8 percent, 5.9 percent and 11.8 percent, respectively, between 2001 and 2002. Between 1998 and 2002, costs for each rose 16.4 percent, 25.7 percent and 28.7 percent, respectively.

An earlier Liberty Mutual survey found a relationship between the two types of costs associated with workplace accidents: **Direct Costs**, or payments to injured employees and their medical care providers, and **Indirect Costs**, such

as lost productivity, overtime costs, etc. Ninety-three percent of business executives surveyed found a relationship between these costs, with 40 percent of them reporting \$1 of direct costs generates between \$3 and \$5 of indirect costs.

Using this formula, the direct costs of disabling workplace injuries in 2002 produced an additional \$148.8 billion to \$248 billion in losses. This would bring the total financial impact of disabling workplace accidents to a staggering \$198.4 billion to \$297.6 billion losses in 2002.

The Rankings of Workplace Injuries

The ranking of the top nine causes of workplace injuries was the same for the past four years, giving employers and safety managers a clear roadmap for preventing the most expensive injuries. The top 10 workplace injuries in 2002 were: Overexertion, Falls on Same Level, Bodily Reaction, Falls to Lower Level, Struck by an Object,

Repetitive Motion, Highway Incidents, Struck against an Object, Caught by Equipment, and Assaults & Violent Acts. (See sidebar.)

“If you want to dramatically cut workers compensation costs, follow the numbers not the headlines,” notes Dr. Tom Leamon, Director of the Liberty Mutual Research Institute for Safety, who presented the 2004 Index’s findings at the National Workers Compensation and Disability Conference in Chicago. “Understand why your employees get hurt and address these sources, rather than the latest safety fads. The top causes of injuries identified by the Index may not make the front page, but they’re probably driving your costs.”

Take Action

So what can employers and safety managers do to control the impact of fewer but more expensive serious workplace injuries?

Workplace injuries aren’t inevitable. Preventing injuries helps companies save their employees real pain and suffering and avoid significant—and growing—costs.

By identifying the leading causes of disabling workplace injuries, the index gives employers a view of those areas in their operation that are the most costly in both human and economic terms.

But nothing happens without a plan. According to Liberty Mutual, those plans that have the greatest impact on safety share five key steps.

1. Identify the injuries that drive your workers compensation costs.
2. Prioritize the ones you want to address.
3. Set clear targets for reducing each injury.
4. Put in place the tactics and training that will prevent these injuries.
5. Regularly track performance and update the plan.

How the Study Works

The 2004 Liberty Mutual Workplace Safety Index is reported by the Liberty Mutual Research Institute for Safety. It analyzes data from 1998 through 2002.

For each study, researchers combine workers compensation information from Liberty Mutual, the federal Bureau of Labor Statistics and the National Academy of Social Insurance to provide a broad perspective on the causes and costs of serious workplace injuries.

Boston-based Liberty Mutual Group (LMG) is a leading global insurer and sixth largest property and casualty insurer in the U.S., and offers a wide range of insurance products and services.

More information on Workplace Safety Index findings and improving workplace safety is available at www.libertymutual.com.

2004 Workplace Safety Index

Top 10 leading Causes of Workplace Injuries and Illnesses in 2002

These are the 10 leading causes of workplace injuries and illness that resulted in employees missing six or more days of work in 2002. These incidents account for 88.3 percent of the \$49.6 billion in direct wages and medical payments paid by employers.

Accident Cause	Direct Cost	Percent
1. Overexertion	\$13.2 billion	26.6 %
2. Falls on Same Level	\$6.2 billion	12.5 %
3. Bodily Reaction*	\$5.3 billion	10.8 %
4. Falls to Lower Level	\$4.6 billion	9.2 %
5. Struck by an Object	\$4.4 billion	8.9 %
6. Repetitive Motion	\$2.8 billion	5.7 %
7. Highway Incidents	\$2.6 billion	5.2 %
8. Struck against an Object	\$2.3 billion	4.7 %
9. Caught by Equipment	\$1.9 billion	3.8 %
10. Assaults & Violent Acts	\$0.4 billion	0.9 %
Top 10 Total	\$43.7 billion	88.3 %
All Other	\$5.9 billion	11.7 %
Grand Total	\$49.6 billion	100 %

* Injuries resulting from bending, climbing, loss of balance and slipping without falling.

Education & Training Calendar

Date	Course Location	MIOSHA Trainer Contact	Phone
February			
14	Training Requirements for Construction Muskegon	Debra Johnson Brian Cole	616.331.7180
15-16	MIOSHA 10-Hour for Construction Ann Arbor	Pat Sullivan Ray Grabel	734.677.5259
16	Supervisor's Role in Safety & Health Clarkston	Richard Zdeb Peggy Desrosier	248.620.2534
23	Excavations and Mobile Equipment Hazards Marquette	Tom Swindlehurst Pete Anderson	517.371.1550
24	Strategies for Accident Prevention and Workers' Compensation Jackson	Quenten Yoder Bill Rayl	517.782.8268
24	Guarding for Manufacturing Holland	Rob Stacy Brian Cole	616.331.7180
March			
8	Ergonomic Principles Niles	Jerry Swift Tim Childs	269.687.5651
9	Excavations and Mobile Equipment Hazards Ann Arbor	Patrick Sullivan Ray Gravel	734.677.5259
9-10	MIOSHA 10-Hour for Construction Sault Ste. Marie	Tom Swindlehurst Pete Anderson	517.371.1550
10	Confined Space Entry Traverse City	Anthony Neroni Shelly Hyatt	231.546.7264
10	Supervisors Role in Safety & Health Bay City	Lee Jay Kueppers Dee Warren	989.892.8601
10	Machine Guarding, JSA and Operator Training, Lockout/Tagout Howell	Karen Odell Janie Willsmore	517.546.3920
16	Ergonomics: Health Care Facilities Grand Rapids	Sherry Scott Brian Cole	616.331.7180
15	Elements of a Safety & Health Management System Port Huron	Bernard Sznajder Carter Hitesman	810.982.8016
15-16	MIOSHA 10-Hour For Construction Traverse City	Tom Swindlehurst Peter Anderson	517.371.1550
22-24	Safety and Health Administrator Course for Construction Midland	Tom Swindlehurst Maria Sandow	989.496.9415
23	Mechanical Power Press: Safety & Health Iron Mountain	Barry Simmonds Brent	800.221.2001
23-24	MIOSHA 10-Hour for Construction Flint	Pat Sullivan Pete Anderson	517.371.1550
24	Overhead & Gantry Crane Workshop Dearborn Heights	Linda Long Staff	313.317.1500
30	Elements of a Safety & Health Management System Harrison	Bob Carrier Karen Kleinhardt	989.386.6629
30-31	MIOSHA 10-Hour for Construction Harris	Tom Swindlehurst Pete Anderson	517.371.1550

Co-sponsors of CET seminars may charge a nominal fee to cover the costs of equipment rental, room rental, and lunch/refreshment charges. For the latest seminar information check our website, which is updated the first of every month: www.michigan.gov/miosha.

Construction Safety Standards Commission

Labor

Mr. Tom Boensch**

Mr. Daniel Corbat

Mr. Andrew Lang

Mr. Larry Redfearn

Management

Mr. Peter Strazdas

Ms. Cheryl Hughes

Mr. Edward Tanzini

Mr. Timothy Wise

Public Member

Dr. Kris Mattila*

General Industry Safety Standards Commission

Labor

Mr. James Baker**

Dr. Tycho Fredericks

Mr. John Pettinga

Vacant

Management

Mr. Timothy J. Koury

Mr. Thomas Pytlik*

Mr. Michael L. Eckert

Mr. George A. Reamer

Public Member

Ms. Geri Johnson

Occupational Health Standards Commission

Labor

Ms. Margaret Vissman

Dr. G. Robert DeYoung**

Ms. Cynthia Holland

Mr. Michael McCabe

Management

Mr. Richard Olson*

Mr. Robert DeBruyn

Mr. Michael Lucas

Mr. Douglas Williams

Public Member

Dr. Darryl Lesoski

*Chair **Vice Chair

Standards Update

Construction Safety Standard Amendments Part 8, Handling and Storage of Materials

Employers and employees will benefit from recent amendments made to Construction Safety Standard Part 8, **Handling and Storage of Materials**, effective, November 16, 2004.

Part 8 pertains to the handling and storage of construction materials, including care and use of slings, ropes, and chains for construction operations, except for specific rules covering materials covered in Part 7, Welding and Cutting; Part 18, Fire Protection and Prevention; and Part 27, Blasting and Use of Explosives.

Occasionally, there are significant differences between the federal OSHA standards and the Michigan standards addressing the same hazards or conditions that may cause confusion for employers who are sincerely trying to comply with worker safety and health requirements.

In fact, all state rules are obligated to be "as effective as" OSHA, according to the accepted agreement between OSHA and the state programs. Part 8 is an example of a Michigan standard that was missing provisions and some important details. The amendments will provide greater clarity to the intent of the rule.

Changes were made in a total of 12 specific rules, including three rules new to the Michigan standard. Following is a summary of the most significant changes.

Rule 810 - Is a new rule that specifies the adoption by reference of the Compressed Gas Association Standard, P-1-2000, Safe Handling of Compressed Gases in Containers. This rule also references eight other MIOSHA standards.

Rule 818 - Has new specific storage provisions for:

- Pipe, poles, structural steel, and other cylindrical materials;
- Material stored near hoistways, floor openings, and exterior walls;
- Segregating noncompatible materials, accumulation of materials on scaffolds or runways;
- Dockboards.

Rule 819 - Has new stacking requirements for bagged material stacking.

Rule 822 - Has newer language for storing material when determining clearances over 50 kv.

Rule 831 - Now requires:

- Scrap lumber, waste materials, or rubbish be removed as work progresses;
- Disposal of waste material or debris by burning must comply with local fire regulations;
- All solvent waste, oily rags, and flammable liquids must be kept in fire resistant covered containers until removed from the worksite.

Rule 833 - Has removed the language allowing for job-built slings.

Rule 835 - Has additional requirements for synthetic fiber rope eye splices.

Rule 840 - Is a new rule for shackles and hooks safe working loads. There is also a new table for determining the safe working loads for shackles.

Rule 841 - Is a new rule for synthetic webbing (nylon, polyester, and polypropylene).

In order to read the actual language changed, a complete "strike/cap" version of the new standard is available on the Internet at: http://www.michigan.gov/documents/CIS_WSH_part08Changes_109262_7.htm. "Strike/cap" is a format that shows exactly what words have been eliminated (using the strikethrough feature), and the new language is printed in bolded typeface.

This standard was reviewed and revised through the direction and authority of the Construction Safety Standards Commission and the Director of the Michigan Department of Labor and Economic Growth. Paper copies of the standard are available on line, or from the MIOSHA Standards Section by calling: 517.322.1845.

To contact any of the Commissioners or the Standards Section, please call 517.322.1845.

Status of Michigan Standards Promulgation

(As of December 10, 2004)

Occupational Safety Standards

General Industry

Part 08.	Portable Fire Extinguishers	Approved by Commission for review
Part 17.	Refuse Packer Units	Approved by Commission for review
Part 18.	Overhead & Gantry Cranes	Public hearing held
Part 19.	Crawler, Locomotive, & Truck Cranes	At Advisory Committee
Part 20.	Underhung Cranes & Monorail Systems	Approved by Commission for review
Part 58.	Vehicle Mounted Elevating & Rotating Platforms (Joint w/CS 32)	Approved by Commission for review
Part 62.	Plastic Molding	Approved by Commission for review
Part 79.	Diving Operations	Approved by Commission for review
Pending	Ergonomics (Joint)	At Advisory Committee
Pending	Telecommunications (Joint)	Approved by Commission for review

Construction

Part 01.	General Rules	Approved by Commission for review
Part 07.	Welding & Cutting	Informal certification
Part 08.	Handling & Storage of Materials	Final, effective 11/16/04
Part 12.	Scaffolds & Scaffold Platforms	Approved by Commission for review
Part 16.	Power Transmission & Distribution	Approved by Commission for review
Part 26.	Steel Erection	Public hearing held
Part 30.	Telecommunications (Joint)	Approved by Commission for review
Part 31.	Diving Operations	Approved by Commission for review
Part 32.	Aerial Work Platforms (Joint w/GI 58)	Approved by Commission for review
Pending	Communication Tower Erection	Approved by Commission for review

Occupational Health Standards

General Industry

Part 451.	Respiratory Protection	Informal rules submitted to ORR/LSB
Part 504.	Diving Operations	Approved by Commission for review
Part 520.	General Ventilation	Informal rules submitted to ORR/LSB
Part 526.	Open Surface Tanks	Approved by Commission for review
Part 528.	Spray Finishing Operations	Approved by Commission for review
Part 529.	Welding, Cutting & Brazing	Approved by Commission for review
Pending	Diisocyanates	At Advisory Committee
Pending	Ergonomics (Joint)	At Advisory Committee
Pending	Latex	Approved by Commission for review

Construction

Part 665.	Underground Construction	Informal certification
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The MIOSHA Standards Section assists in the promulgation of Michigan occupational safety and health standards. To receive a copy of the MIOSHA Standards Index (updated June 2004) or for single copies and sets of safety and health standards, please contact the Standards Section at 517.322.1845, or at www.michigan.gov/mioshastandards.

RFR Request for Rulemaking
 ORR Office of Regulatory Reform
 LSB Legislative Services Bureau
 JCAR Joint Committee on Administrative Rules

MIOSHA News Quiz

Topic: MIOSHA Illness & Injury Recordkeeping Requirements

By: Staff Members of the
MIOSHA Information Systems Section

Questions

1. An illness or injury event should be reported when it results in which of the following? (choose as many as apply)

- A. Death
- B. Days away from work
- C. Restricted work activity or job transfer
- D. Loss of consciousness
- E. Medical treatment beyond first aid
- F. Significant injury or illness diagnosed by a medical professional

2. How does an employer calculate an incidence rate?

3. Should injuries and illnesses requiring only first aid treatment be recorded?

4. True or False. When recording days away from work or days of restricted work activity, you should only count scheduled workdays.

5. True or False. When recording days away from work or days of restricted work activity, you should count the day the injury or illness occurred.

6. Should a case that results in days away from work and restricted days be checked off on the Log 300 in column H and also column I?

7. True or False: When referring to recordable cases, DART stands for Days Away from work, days of Restricted work activity or job Transfer.

8. For illness and injury recording purposes, are parking lots considered part of the work environment?

9. True or False. A needlestick or sharps-related injury does not need to be recorded if treated with only with first aid.

10. True or False. If an injury or illness occurs in the workplace, but is due to employee carelessness or negligence, it does not need to be reported.

11. True or False. If an employer reports work-related injuries and illnesses on the MIOSHA 300 form, MIOSHA will target the employer for inspection.

12. Are all incidents classified "reportable" by Workers Compensation automatically "reportable" under MIOSHA injury and illness guidelines?

Answers

1. All of the selections apply. Work-related injuries and illnesses must be recorded if they result in any of the outcomes listed in A, B, C, D, E, or F.

2. No. Each program has its own unique method of calculating the incidence rate.

3. False. Inspection may serve to focus the hazards records during a normally scheduled enforcement activities. Review of these incidents, not to schedule MIOSHA perform statistical analyses of injury and illness.

4. True. MIOSHA 300 forms are used to those related to negligent or careless behavior. Standard for specific exceptions, including and illnesses must be recorded. Refer to the 10. False. In general, all workplace injuries and illnesses must be recorded.

5. False. If the needlestick or sharp may be contaminated with blood or an infectious material, the event must be recorded.

6. True. If the needlestick or sharp may be contaminated with blood or an infectious material, the event must be recorded.

7. True. All cases of work-related injuries or illnesses, which result in DART, must be recorded.

8. Yes. Parking lots are now considered part of the work environment. An injury or illness that occurs in the work environment (including parking lots) and meets one or more of the recording criteria must be recorded.

9. True. If the needlestick or sharp may be contaminated with blood or an infectious material, the event must be recorded.

10. True. All cases of work-related injuries or illnesses, which result in DART, must be recorded.

11. True. All cases of work-related injuries or illnesses, which result in DART, must be recorded.

12. True. All cases of work-related injuries or illnesses, which result in DART, must be recorded.

13. True. All cases of work-related injuries or illnesses, which result in DART, must be recorded.

14. True. All cases of work-related injuries or illnesses, which result in DART, must be recorded.

15. True. All cases of work-related injuries or illnesses, which result in DART, must be recorded.

Variances

Published January 17 2005

Following are requests for variances and variances granted from occupational safety standards in accordance with rules of the Department of Labor & Economic Growth, Part 12, Variances (R408.22201 to 408.22251).

Variances Requested Construction

Part number and rule number from which variance is requested

Part 32 - Aerial Work Platforms: R408.43209, Rule 3209

Summary of employer's request for variance

To allow employer to firmly secure scaffold planks to the top of the intermediate rail of the guardrail system for use as a work platform provided certain stipulations are adhered to.

Name and address of employer

Alberici Constructors

Location for which variance is requested

GM Lansing Delta Township Assembly, Delta Township

Name and address of employer

John E. Green Company

Location for which variance is requested

General Motors Delta Facility, Delta Township

Name and address of employer

Mall City Mechanical, Inc.

Location for which variance is requested

Borgess Medical Center, Kalamazoo

Name and address of employer

Power Process Piping, Inc.

Location for which variance is requested

Marathon Ashland Petroleum, Detroit

Variances Granted Construction

Part number and rule number from which variance is requested

Part 32 - Aerial Work Platforms: R408.43209, Rule 3209

Summary of employer's request for variance

To allow employer to firmly secure a scaffold plank to the top of the intermediate rail of the guardrail system of an aerial lift for limited use as a work platform, provided certain stipulations are adhered to.

Name and address of employer

Ford Motor Company

Location for which variance is requested

Ford Motor Company, Ford Land Site Management Operations, Dearborn

Name and address of employer

J C Jimenez Construction.

Location for which variance is requested

Sinai Educational Campus, Detroit

Name and address of employer

Midwest Steel, Inc.

Location for which variance is requested

Ford Motor Company, Wayne Assembly Michigan Truck Body, Wayne

Name and address of employer

Power Process Piping, Inc.

Location for which variance is requested

General Motors Paint Facility, Delta Township Michigan Truck Plant, Wayne

Wayne ISA Plant, Wayne

Furniture Industry

Cont. from Page 6

located over a passageway. Gears, sprockets, chain drives, revolving and reciprocating parts must be guarded when exposed to contact.

Electrical Safety

Electrical safety issues were cited more than 220 times at furniture and fixture establishments. The need to guard live parts of electrical equipment operating at 50 volts or more against accidental activation was the most commonly cited deficiency. This includes doors of electrical panels left open, and unused openings in electrical panels not covered. The second most frequently cited electrical issue was the need to assure that unused openings in cabinets, boxes and fittings are effectively closed.

Hazard Communication-Employee Right to Know

The most frequently cited provision of the Hazard Communication standard was the requirement that each container of hazardous chemical in the workplace be labeled, tagged or marked with the identity and appropriate hazards warning.

The second most frequent issue was the need for a written Right to Know program. Often a program is found to exist, but to have inadequacies such as a missing or incomplete chemical list due to a change in products. Another program inadequacy occurs when the person designated as responsible for the program changes, but the program is not updated.

Also cited frequently was the Michigan-specific requirement that pipes and piping systems that contain a hazardous chemical be identified through use of a label, sign, placard, written operating instruction, process sheet, batch ticket or other substance identification system.

Personal Protective Equipment (PPE)

Lack of proper personal protective equipment or inadequate equipment was the fourth most frequently cited standard for the industry. The hazards of each type of job in a facility must be analyzed to determine the need and type of appropriate personal protective equipment.

Some furniture and fixture workplaces have significant need for face and eye protection due to work activities such as cutting, sanding, finishing and polishing. Lack of appropriate eye protection was the number one PPE issue. Attention must also be given to ensure that new employees are trained on the hazards, duties, and safeguards of the job prior to initial assignment.

Lockout-Tagout

The number one rule violation identified has been the lack of or deficiencies in lockout-tagout procedures. Equipment and machinery must be locked out when employees are performing servicing or maintenance work in which the unexpected energization or start up of the

machines or equipment, or a release of stored energy, could cause injury to employees.

The provisions of the lockout-tagout standard apply when any of the following situations exist:

- An employee must either remove or bypass machine guards or other safety devices, resulting in exposure to hazards at the point of operation;

- An employee is required to place any part of his or her body in contact with the point of operation of the machine or piece of equipment; or

- An employee is required to place any part of his or her body into a danger zone associated with a machine operating cycle.

Walking and Working Surfaces

Deficiencies in General Industry Safety Standard, Part 2, Floor and Wall Openings, Stairways and Skylights requirements were cited more than 70 times. Most frequently identified was the need to guard an open-sided floor or platform four feet or more above an adjacent level with a properly constructed standard barrier. The need to guard holes, openings and hatchways of floors and to provide an appropriate means to gain access to another elevation in excess of 16 inches were also frequently identified.

Spray Finishing

Requirements for worker safety while performing spray finishing and dip tank operations has been a frequently cited area. Most frequently identified was the need to provide an effective bond and ground when flammable or combustible liquids are transferred from one container to another. In addition, lack of training for employees assigned to perform spray finishing was also frequently identified.

Requirements for spraying areas were a concern with the need to maintain areas to avoid accumulations of deposits of combustible residues, which can create a hazard. Additionally, approved metal waste cans must be used for rags or waste impregnated with spray finishing materials and must be properly disposed of at least daily.

Powered Industrial Trucks

Operators of powered industrial trucks must be selected, trained and licensed by the employer following the requirements of the standard. Lack of a valid operator permit is the most often identified deficiency. A second frequently identified deficiency has been the lack of wheel chocks. A highway truck and trailer must have the brakes set and not less than two rear wheels blocked or be restrained by other mechanical means installed in a manner that will hold the trailer from movement when being boarded by a powered industrial truck.

Fire Exits

Lack of exit signs, blocked exits, and failing to prevent fire doors from being secured in

an open positions were the most frequently identified issues related to requirements for means of egress for employee use in the advent of hazardous conditions such as fire, explosions, and natural disasters.

Welding and Cutting

Lack of providing protective devices to protect all employees in a welding area was the most frequently identified welding and cutting safety issue. Also frequently identified was the need to post welding gas cylinder storage areas with the name of gas and a warning against tampering by an unauthorized employee, and ensuring that welding gas cylinders are restrained to prevent them from falling.

Confined Spaces

Most frequently identified was the need to evaluate the work place to determine if any spaces are permit-required.

Ergonomic Issues

In addition to the above, ergonomics is a major concern for this industry. Employers are encouraged to conduct an assessment to identify jobs or work conditions that may cause undue strain, localized fatigue, discomfort or pain. Job tasks that involve activities such as repetitive and forceful exertions, frequent heavy or overhead lifts, awkward work positions, or use of vibrating equipment should be evaluated for possible ergonomic problems.

It is recommended that engineering controls be used when possible to reduce or eliminate hazards. Ergonomically designed hand tools, workstations, material lifting devices can help eliminate hazards. Designing work areas that do not require employees to work in awkward positions, use repetitive movements or forceful exertions can reduce the risk of cumulative trauma and musculoskeletal disorders.

Safety & Health Management System

Employers are encouraged to analyze their workplace to develop and adopt a comprehensive safety and health management system. Several studies, including one in Michigan, have documented the critical difference these systems make between employers with high injury rates and those with low rates.

CET Services

Michigan employers in the transportation equipment industry can take advantage of the services available from the **Consultation Education and Training (CET) Division**. The CET Division has sample safety and health, lockout-tagout, Right to Know, and ergonomic programs available at no charge.

In addition, CET Consultants are available to visit worksites to provide training, review programs and make recommendations for improvements. CET services are free—the CET Division is funded by a special assessment on Workers' Compensation losses and matching federal funds. To learn more about the services available, please call **517.322.1809**. ■

Lanzo Construction

Cont. from Page 1

of Defendant's employees on the day of this fatality was, indeed, willful. Clearly, there was no 'justifiable excuse' for failing to slope, shore or otherwise protect the employees within the excavation on Lake Ravine Drive."

Since 1994, twenty Michigan workers have died as a direct result of trench collapse accidents. Because of perceived cost considerations, some underground contractors do not take trench support seriously. They balance their budgets by subjecting their employees to dangerous work conditions. Yet, for every dollar invested in safety and health programs, contractors can save \$4 to \$6 in the costs of workplace injuries and illnesses.

Lanzo Construction Company, and Vice President Angelo D'Alessandro personally, were each charged with separate counts of involuntary manslaughter and a MIOSHA Willful Criminal violation. On Oct. 30, 2002, 46th District Court Judge Stephen C. Cooper bound over the Company for trial on the two counts, and bound over D'Alessandro on the involuntary manslaughter count. On April 16, 2003, Circuit Court Judge O'Brien dismissed the charge against D'Alessandro.

The state pursued the criminal action through the Attorney General's Office because the employer contributed to the worker's death by willfully ignoring safety standards. **Thomas Cameron**, Assistant Attorney General with the AG's Criminal Division, prosecuted the case. **Diane K. Phelps**, Director of the MIOSHA Appeals Division, worked side by side with Cameron, providing technical and legal assistance on MIOSHA rules and standards interpretation.

The conviction carries a maximum penalty of \$10,000, and a maximum jail term of one year. Sentencing is scheduled in Oakland County's 6th Circuit Court for January 4, 2005, at 1:00 p.m., which is after this issue was printed.

Accident Information & Investigation

On May 24, 1999, a crew from Lanzo Construction Company was installing sewer pipe when a cave-in occurred on Lake Ravines Drive in Southfield. Robert James Whiteye, 52, a pipe layer, was pronounced dead at the scene after rescuers worked for several hours to extricate him from the trench. The fatality occurred in an area of the excavation that was approximately 18 feet deep, with vertical walls, and without any protection to guard against cave-ins.

Trench sloping and support systems are required by MIOSHA Construction Standard Part 9. MIOSHA developed its own excavation standard in 1979; it was last amended in 1996. This company violated even the most basic provisions of this standard. Three MIOSHA construction compliance officers were involved in the accident investigation. The investigation was lengthy and complicated by further complaints of hazardous exposures to Lanzo employees on this project, the difficulty of interviewing witnesses living in Canada, and legal consultations.

The investigation revealed that Lanzo Construction knew of the substantial risk of injury to employees engaged in trenching work, and failed to provide trenching support to prevent injury to their employees. Company officials were at the job site and made no effort to protect their employees. Additionally, they failed to furnish Whiteye a place of employment free from recognized hazards that were likely to cause death or serious physical harm.

"Trenching accidents are a major cause of job-related injuries and fatalities in Michigan," said **MIOSHA Director Doug Kalinowski**. "Employers must provide protection when workers are exposed to the risks of cave-ins and other excavation hazards. Workers can be trapped or killed when decisions are made to shortcut safety in order to save time or money."

Early news accounts of the accident indicated that Whiteye was protected by a trench box and stepped out of it for some reason. However, the MIOSHA inspection revealed that the trench was at least 18 feet deep, but only the top eight feet were protected by a trench box. In addition, Lanzo officials ordered the width of the trench box reduced from eight feet to four feet wide. Because a five-foot-wide manhole was being installed, no cave-in protection was provided to Whiteye at the point of installation. At the time of the accident, Whiteye was required to work outside of the trench box.

On March 2, 2000, 30 citations for civil violations of the Michigan Occupational Safety and Health Act were hand delivered to Lanzo Construction Company, including: 12 alleged willful serious violations, 12 alleged serious violations and six alleged other-than-serious violations. Six of the 12 alleged willful violations relate directly to the fatality. The proposed penalties totaled \$657,500. Lanzo has appealed the 30 civil citations resulting from this incident, and the MIOSHA administrative appeal concerning the civil violations has been held in abeyance until the conclusion of the criminal case. ■



The Whiteye fatality occurred in an excavation that was approximately 18 feet deep, with vertical walls.

Settlement Options

Cont. from Page 8

when the employer and issuing division agree on all but one item on a multi-tem citation. More than one item may remain contested where there are unusual circumstances to consider, such as multiple items related to a single issue.

■ The issuing division believes there is more merit to the issues raised by the employer on the item(s) that remain contested, or that there is good reason to take the contested item(s) to a higher level of discussion.

■ Penalty reductions granted under a partial settlement agreement will typically be less than 50 percent on settled items. However, penalty reductions of up to 50 percent may be granted on settled items when new information or additional review indicates that such reduction in penalty is appropriate.

■ The employer must provide documentation to the issuing division indicating that settled citation items have been abated or are in the process of being abated.

Additional Requirements

As in the past, MIOHSA may include additional requirements that go beyond minimum compliance with the standards when determined appropriate on a case-by-case basis. These additional requirements will not routinely be required of an employer. MIOSHA does maintain discretion to require the employer go beyond the rules and standards when it is determined necessary to help insure that abatements are maintained and employees are adequately protected.

The goal of MIOSHA is to help assure that Michigan's working men and women are provided safe and healthful work environments. The new instruction for settling cases is intended to provide a variety of options for employers and MIOSHA staff to help ensure that cases are settled at the earliest possible time.

The instruction, MIOSHA Agency COM 04-2, "*Appeal and Settlement Processes for MIOSHA Enforcement Divisions*," is on our website at: www.michigan.gov/mioshapolicies. For additional information, contact the **General Industry Safety and Health Division** at 517.322.1831, the **Construction Safety and Health Division** at 517.322.1856, or **Martha Yoder, Deputy Director**, at 517.322.1817. ■

Photo Correction

The photo used with the "Joint Construction Inspections" cover article in the Fall 2004 MIOSHA News, was incorrectly identified. The photo was not taken at a Turner Construction Company site. It was taken at an inspection of another contractor at a different construction project in the Detroit area. We apologize for any confusion related to the use of this photo.

Workplace Solutions

Cont. from Page 3

courses are listed on our website.

Could you pass a MIOSHA inspection? Another highly successful CET program is “**Onsite Consultation**,” in which Michigan employers can participate in a thorough safety and/or health hazard survey. The walk-through is very similar to MIOSHA enforcement inspections, except no citations or penalties are issued if all serious hazards are corrected. A written report of the findings is provided, with specific advice for eliminating existing and potential safety and health hazards. Onsite services are available for general industry and construction, are voluntary, and provided only at an employer’s request.

Cooperative Programs

A company’s safety and health management system can be a barometer of organizational excellence. You cannot have an “excellent” company with a lot of accidents. The CET Division has several cooperative programs that recognize outstanding companies who are achieving success or who implement innovations in their workplace that are reducing employee injuries and illnesses. In the spirit of cooperation, these companies invite CET Consultants into their facilities to conduct an audit of their system, review their injury and illness data, and assure all award eligibility requirements are met.

These programs include the Michigan Vol-

untary Protection Program (MVPP); the Michigan Safety and Health Achievement Program (MSHARP); the Bronze, Silver, Gold, and Platinum CET Awards; and the Ergonomic Innovation and Ergonomic Success Awards. These companies have active and visible top management commitment and engage employees in all facets of their program, resulting in a culture that drives safety and health performance. Through these recognition awards, CET Consultants have an opportunity to learn from the best and are prepared to share success stories with other companies interested in making improvements.

Other cooperative ventures the CET Division engages in are “Partnerships and Alliances.” Since 2002, the CET Division has worked closely with the UAW, Ford Motor Company, and Visteon Corporation through a signed partnership to increase awareness of worker safety and health. The newest cooperative effort, the Alliance program has been launched in MIOSHA and CET is eager to align with employee and employer associations and organizations to work together to advance workplace safety and health.

Other CET Services

The CET Division maintains an extensive publication library of literature on a wide range of occupational safety and health topics, along with posters, stickers, and flyers designed to increase safety and health awareness in the workplace, and sample written programs. The library offerings are available free of charge. Most of

the CET publications are available on the MIOSHA web page, www.michigan.gov/miosha.

Videos from a library of more than 200 titles are available on a first-come, first-serve basis for employer and employee use in enhancing in-house safety and health training efforts. All videos are available for loan at no charge, requiring only nominal return postage after use. A listing of the videos is available on the MIOSHA web page and in printed format. The library has been expanded to include Spanish titles.

The CET Grant program is an innovative state-funded program that annually awards grant monies to management/employer groups, labor/employee organizations, and other nonprofit organizations such as universities, hospitals, and service agencies on an open competitive basis. Grantees are able to supplement the work of CET consultants by accessing “hard-to-reach” target groups and conduct or develop programs for highly specialized industry-specific training needs.

The services provided by the CET Division can make a difference in workplace safety and health. We believe that working with CET is a smart business investment, and plays a key role in creating a successful, competitive business operation.

CET services are free—the CET Division is funded by a special assessment on Workers’ Compensation losses and matching federal funds. Please take advantage of CET services to effectively address your workplace challenges. Call 517.322.1809 today. ■

Multi-Employer Sites

Cont. from Page 10

the right to set schedules and construction sequencing, require contract specifications to be met, negotiate with trades, resolve disputes between subcontractors and direct work or make purchasing disputes between subcontractors and direct work or make purchasing decisions that affect safety. Where the combination of rights results in the ability of the employer to direct actions relating to safety, the employer is considered a controlling employer.

Sufficient control without contractual authority

■ Even where an employer has no contract rights with respect to safety, the employer can still be a controlling employer if, in actual practice, it exercises broad control over subcontractors at the site.

■ A construction manager does not have specific contractual authority to require subcontractors to comply with safety requirements. However, it exercises control over most aspects of the subcontractors’ work anyway, including aspects that relate to safety. This construction manager would be considered a controlling employer and would be citable if it failed to exercise reasonable care in overseeing safety.

Reasonable care.

■ A controlling employer normally shall be cited if it failed to exercise reasonable care in preventing or correcting a violation.

■ The reasonable care standard for a controlling employer is not as high as it is for an exposing, creating or correcting employer.

(a) This means that the controlling employer is not normally required to inspect as frequently or to have the same level of knowledge of the applicable standards or of trade expertise as the subcontractor.

(b) Factors that affect how frequently and closely a controlling contractor must inspect to meet its standard of reasonable care include the scale of the project, the nature of the work, how much the general contractor knows about both the safety history and safety practices of the subcontractor and about the subcontractor’s level of expertise.

Example 4: A general contractor hires an electrical subcontractor. The electrical subcontractor installs an electrical panel box exposed to the weather and implements an assured equipment grounding conductor program, as required under the contract. It fails to connect the grounding wire inside the box to one of the outlets. This incomplete ground is not apparent from a visual inspection. The general contractor inspects the

site twice a week. It saw the panel box but did not test the outlets to determine if they were grounded because the electrical contractor represents that it is doing all of the required tests on all receptacles. The general contractor knows that the subcontractor has a good safety program. From previous experience it also knows that the subcontractor is familiar with the applicable requirements and is technically competent. It had asked the subcontractor if the electrical equipment is OK for use and was assured that it is.

Analysis: The general contractor exercised reasonable care. It had determined that the subcontractor had technical expertise, safety knowledge and used safe work practices. It also made some basic inquiries into the safety of the electrical equipment. Under the circumstances it was not obligated to test the outlets itself to determine if they were all grounded. It would not be citable for the grounding violation.

Conclusion

The MIOSHA compliance divisions have provided training for all compliance staff on the new instruction. Our goal is to be as consistent as possible in the application of the multi-employer work site policy. The Multi-Employer Work Sites instruction (COM 04-1) and appendix can be seen in its entirety on the MIOSHA web site at www.michigan.gov/miosha. ■

How To Contact MIOSHA

MIOSHA Complaint Hotline 800.866.4674
Fatality/Catastrophe Hotline 800.858.0397
General Information 517.322.1814
Free Safety/Health Consultation 517.322.1809

Director 517.322.1814 **Doug Kalinowski**
Deputy Director 517.322.1817 **Martha Yoder**

DIVISION	PHONE	DIRECTOR
Appeals	517.322.1297	Diane Phelps
Construction Safety & Health	517.322.1856	Bob Pawlowski
Consultation Education & Training	517.322.1809	Connie O'Neill
General Industry Safety & Health	517.322.1831	John Brennan
Management & Technical Services	517.322.1817	John Peck
OFFICE	PHONE	MANAGER
Asbestos Program	517.322.1320	George Howard
CET Grant Program	517.322.1865	Jerry Zimmerman
Employee Discrimination Section	248.888.8777	Jim Brogan
MIOSHA Information Systems Section	517.322.1851	Bob Clark
Standards Section	517.322.1845	Marsha Parrott-Boyle

Website: www.michigan.gov/miosha

If you would like to subscribe to the MIOSHA News, please contact us at 517.322.1809 and provide us with your mailing address. Also if you are currently a subscriber, please take the time to review your mailing label for errors. If any portion of your address is incorrect, please contact us at the above number.



Michigan Occupational Safety and Health Administration
Director: Douglas J. Kalinowski

The MIOSHA News is a quarterly publication of the Michigan Occupational Safety and Health Administration (MIOSHA), which is responsible for the enforcement of the Michigan Occupational Safety and Health (MIOSH) Act.

The purpose is to educate Michigan employers and employees about workplace safety and health. This document is in the public domain and we encourage reprinting.

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